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JP-23

Standing Committee on Justice Policy

Cutting Unnecessary
Red Tape Act, 2017

Comité permanent de la justice

Loi de 2017 visant à réduire
les formalités administratives
inutiles

2nd Session
41st Parliament

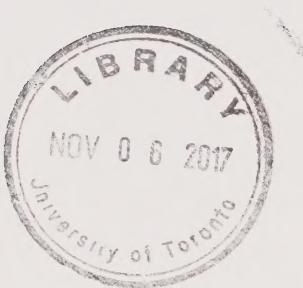
Thursday 19 October 2017

2^e session
41^e législature

Jeudi 19 octobre 2017

Chair: Shafiq Qaadri
Clerk: Christopher Tyrell

Président : Shafiq Qaadri
Greffier : Christopher Tyrell



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CONTENTS

Thursday 19 October 2017

Cutting Unnecessary Red Tape Act, 2017, Bill 154, Mr. Duguid / Loi de 2017 visant à réduire les formalités administratives inutiles, projet de loi 154, M. Duguid	JP-503
CUPE Ontario	JP-503
Mr. Fred Hahn	
Mr. Anthony Duggan	JP-505
Canadian Finance and Leasing Association	JP-507
Mr. Michael Rothe	
Ontario Federation of Labour	JP-509
Mr. Chris Buckley	
Ontario Nonprofit Network	JP-510
Ms. Cathy Taylor	
Trillium Automobile Dealers Association	JP-512
Mr. Frank Notte	
RESCON	JP-515
Mr. Michael de Lint	
Canadian Environmental Law Association	JP-516
Ms. Ramani Nadarajah	



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICY

Thursday 19 October 2017

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT
DE LA JUSTICE

Jeudi 19 octobre 2017

*The committee met at 0901 in committee room 1.*CUTTING UNNECESSARY
RED TAPE ACT, 2017LOI DE 2017 VISANT À RÉDUIRE
LES FORMALITÉS ADMINISTRATIVES
INUTILES

Consideration of the following bill:

Bill 154, An Act to cut unnecessary red tape by enacting one new Act and making various amendments and repeals / Projet de loi 154, Loi visant à réduire les formalités administratives inutiles, à édicter diverses lois et à modifier et abroger d'autres lois.

Le Président (M. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice.

Welcome, colleagues. I call the Standing Committee on Justice Policy to order. As you know, we're here to consider Bill 154, An Act to cut unnecessary red tape by enacting one new Act and making various amendments and repeals. We'll have introductory presentations by each presenter for about five minutes, followed by three-minute rotations with questions by each party.

CUPE ONTARIO

The Chair (Mr. Shafiq Qaadri): I know that Mr. Fred Hahn, our first presenter, of CUPE Ontario knows well the drill.

Please come forward, Mr. Hahn. You may reintroduce yourself, and please begin. You have five minutes.

Mr. Fred Hahn: Thank you. My name is Fred Hahn. I'm the president of CUPE Ontario. We're the province's largest union. We have more than 260,000 members working in virtually every community across the province.

I'm here today to speak specifically on schedule 4, the Reducing Regulatory Costs for Business Act, which is part of Bill 154.

First, I'd like to note that the bill is 144 pages long, and it is an omnibus piece of legislation. I just want to highlight the challenges that presents. I think it's fair to say that if schedule 4 were a separate piece of legislation, it would receive far more scrutiny. But, unfortunately, it's not, so we are here to talk about something that is actually buried in an omnibus bill.

At its heart, schedule 4 of Bill 154 is based on the flawed belief that regulations are inherently bad, and that's quite simply poppycock. The knee-jerk belief in cutting regulations because they somehow oppress us all, especially business, is just plain wrong. It's simply not borne out by any academic or economic studies on the subject, as our brief outlines.

It's also not borne out by logic. To call regulations "red tape"—well, people will react negatively. But if you call them what they are—ensuring safe drinking water and food; maintaining rules that ensure safe and healthy workplaces or that cars don't explode when they turn left while running their AC—people appreciate them for what they are: They're rules that protect us all.

They surely need to be updated periodically, but schedule 4 isn't about removing outdated regulations. It states, "Where a regulation governed by this act is made or approved and has the effect of creating or increasing one or more administrative costs, a prescribed offset must be made within a prescribed time after the regulation is ... approved"—any regulation. It doesn't matter what the need is for it; it just assumes they're all a bad thing, that they are burdens for business and that they require offsets.

The idea on its face is offensive. What offset would have been needed for regulations made to deal with Walkerton, to ensure that Ontarians could turn on their taps and drink their water without fear of poisoning? What about the regulations of the Canadian banking system or the housing and financial sectors that were widely pointed to as saving our economy from a complete meltdown during the 2008 crisis, unlike the US and the UK, who had gutted their regulations?

Gutting them is supposed to help business grow and create jobs, but that claim is false too. Research on the relationship between employment and regulations generally finds that regulations have a neutral or even positive effect on employment in the US each year. The non-partisan Office of Management and Budget reports to Congress on the costs and benefits of federal regulations. It finds that federal regulations provide a net benefit to society of over \$100 billion a year. The ratio between benefits and costs is 7 to 1.

Even with these facts, 10 days after he was sworn in as president, President Trump executed executive order 13771, entitled Reducing Regulation and Controlling Regulatory Costs. It's very similar to schedule 4. It ac-

tually states that the government needs to repeal two existing regulations for every new one it proposes. The executive order is currently the subject of a legal and constitutional challenge in the US, and for good reason.

So why is it that the Ontario government is proposing the adoption of the same unthinking and anti-regulatory approach being pursued south of the border? Looking at the specifics of schedule 4, the unintended consequences of this type of legislation become clear.

Our brief goes into detail about our concerns, but I want to highlight just one. Schedule 4 references offsets for business and defines “business” as those with a “view to profit.” In essence, the schedule suggests that if you’re trying to make a profit, you should be covered by any losses associated with the administrative costs of complying with any new regulation. But if you’re not trying to make profit—if, let’s say you’re a not-for-profit service provider in a sector that also has for-profits operating in it as well, like in long-term care or child care—I guess you get some kind of offset if you’re for-profit, but the administrative burden has to be borne by those who are not-for-profit.

Schedule 4 needs to be removed. This isn’t the regulatory regime we need in the province, not today and certainly not for our future. Thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hahn. We’ll begin our questions with the PC Party. Mr. McNaughton, three minutes.

Mr. Monte McNaughton: Simply, your concern is with schedule 4 in that there’s an offset.

Mr. Fred Hahn: Our concern is with schedule 4 for sure. We want it to be removed from the bill, but our concern is a bit greater than the question of offset. Our concern is that it’s based on the premise that regulations are, on their face, bad and that if they in fact cost business money, that that’s somehow bad. But we know that, for example, environmental regulation may in fact cost business some money, but it would save the environment and perhaps save lives.

Those costs aren’t factored in here, in any way at all. In fact, if you look at the current economic climate, profits for corporations are growing. There doesn’t seem to be any hampering going on by current regulation. It’s not only unnecessary, but we think it’s based on a false premise, wrong-headed, and it should be removed.

Mr. Monte McNaughton: Perfect. Thank you very much. No further questions.

The Chair (Mr. Shafiq Qaadri): We’ll now move to the NDP. Ms. Fife, three minutes.

Ms. Catherine Fife: Thank you very much, Mr. Hahn, for your presentation. Thanks for also including the legal opinion from Goldblatt Partners.

There’s one question that I specifically have for you around “where a regulation governed by this act is made or approved and has the effect of creating or increasing one or more administrative costs.” It goes into, ironically, a very burdensome and red-tape filled process to address red tape, in some views. But it leaves that the legislation does not define the administrative cost or the offset, for

that matter. Rather, these are left to be determined by the unfettered discretion of cabinet. This is made clear in subsection 10(2).

Do you have any concerns around, really, further politicizing this concept of costing out red tape? Do you trust the government to appropriately cost it?

Mr. Fred Hahn: I appreciate the question. I appreciate you calling attention to the fact that we did in fact get a legal opinion here. We, of course, have a political opinion, but we wanted there to be, backing up that political opinion, a legal opinion. That legal opinion bears out our concerns.

The question that you raise about actually, now, what would be required is that each ministry, when it proposes a regulation, would have to engage in some kind of cost-benefit analysis about the administrative cost. It’s not clear how that would be done. It doesn’t weigh any of the benefits of the regulation and the cost associated with not actually doing the regulation. It’s our understanding that the offset being imagined is \$1.25 for every dollar of cost, so in fact, that kind of offset means that there’s a benefit to business simply for complying with regulations, many of which, as our brief outlines, safeguard the public and are better for our collective future.

0910

We’re quite worried about today. We’re quite worried for the current government, but we’re also worried that this—when government makes regulations and/or legislation, I should say, it’s laying the groundwork for all future governments. Any future government would be empowered simply by cabinet to change that offset. Maybe it would be \$1; maybe it would be \$3 for every dollar of cost. Who knows? And that would be a problem for all of us.

Ms. Catherine Fife: I just want to say thank you for raising the issue because, as you know, this government has really embraced the concept of corporate child care. If you play this scenario out, the act defines “business” as every trade, occupation, profession, service or venture carried on with a view to making a profit, which, of course, corporate child care would. You could see a trade-off here around, potentially, safety regulations that guard our children or, as you point out, our seniors.

Mr. Fred Hahn: In fact, we’re proud to represent almost 40,000—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Fife.

The floor now passes to the government side: Ms. Martins.

Mrs. Cristina Martins: Good morning, Fred; good to see you. Thank you so much for presenting here this morning. I’m going to pick up on your discussion in and around regulations.

Before I got into politics, I worked in the pharmaceutical industry, and let me tell you: If there is an industry that is regulated, it is the pharmaceutical industry. I appreciate regulations. You referred to them often during your deputation here today as positive regulations. I agree; we have regulations that are absolutely necessary.

You also said that we should be updating regulations periodically, and I think that is the intent of this bill here today. We are not only updating them but we are improving the regulations that we currently have in play.

I wanted to bring your attention to the preamble for schedule 4 of this bill. Preambles do have legal consequences and spell out the intent of the bill. In four short little paragraphs, we mention four or five different times that the intent of this bill is always to protect the public, workers and the environment. "Ontario is committed to fostering a strong business climate that supports growth while ensuring appropriate regulatory oversights that protect the public, workers and the environment."

This is what this bill intends to do. It intends to update the regulations and it intends to improve the regulations, but to continue to ensure that we have the appropriate protections in place so we don't have another Walkerton.

Mr. Fred Hahn: I appreciate your view of regulations, but the challenge is that it's directly opposed to what schedule 14 in its body says. What it requires government to do is to calculate the cost of regulation and then supply an offset. So those good regulations that you were talking about in the pharmaceutical industry that are important and that safeguard the public could in fact be deemed a cost for that industry. Then, government would be required to provide an offset. That offset would be \$1.25 for every \$1 of cost in complying with regulations that are good. Where does that money come from? Does it come from corporate tax cuts? Does it come from not having to comply with certain other regulations in their costs?

I want to believe that we all understand the importance of regulations. It is why schedule 14 must be removed from this bill: because it doesn't do what you have asked for it to do.

Mrs. Cristina Martins: I think the cost that we're referring to here are administrative costs. So for any additional cost that is incurred to a business, the ministry needs to find \$1.25 in savings. If the increase is \$1 and they are administrative costs, then we need to find a savings of \$1.25.

Mr. Fred Hahn: But how do you save that \$1.25 in administrative costs? Is it by not having to comply with another regulation? Is it by corporate tax breaks? That \$1.25 is set by regulation—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Martins, and thanks to you, Mr. Hahn, in your capacity as president of CUPE. By our collective estimate, I think this is your 55th presentation to the committee—

Mr. Fred Hahn: Oh my God, are you keeping track?

Laughter.

The Chair (Mr. Shafiq Qaadri): Well, we welcome you to the 56th, which is probably next week.

MR. ANTHONY DUGGAN

The Chair (Mr. Shafiq Qaadri): In any case, our next presenter is Mr. Anthony Duggan. Please come for-

ward. You've seen the drill: five minutes' opening remarks.

Ms. Catherine Fife: Chair, can you turn down the fans?

The Chair (Mr. Shafiq Qaadri): I believe there are higher powers involved. We'll make inquiries.

Go ahead, Mr. Duggan; you have five minutes.

Mr. Anthony Duggan: Thank you. My name is Tony Duggan. I'm a professor at the University of Toronto law school. I have a particular interest in personal property securities law and secure transactions, and I want to focus my time on the PPSA provisions in the bill.

I haven't got anything I want to say directly about the provisions in the bill, but I would like to say something about the matters relating to PPS—personal property securities—reform more generally.

There are two items, and I'll probably only get through one of them in my five minutes. One of them relates to funding for PPS register enhancements and the other one relates to the importance of coordinating Ontario's efforts at personal property securities law reform with the work that's going on in other parts of the country, because we want to make sure that the left hand knows what the right hand is doing.

The PPSA reforms in the bill all came ultimately from recommendations contained in the Business Law Advisory Council's report. In its 2017 report, there are a number of other PPS-related recommendations which are likely to come before this committee at some point. A number of those recommendations, in order to be implemented effectively, will require enhancements to the register. So no matter what people think of the rights and wrongs of the substance of the change, it won't get made unless support changes are made to the register.

Let me give you two examples. One is that back in 2006, a recommendation was made to change the rules governing collateral description requirements in a financing statement. At the moment in Ontario, the way it works is that you just cross a box. There are five boxes on the print form; you cross "Equipment," you cross "Inventory," you cross "Accounts," you cross "Other" and you cross "Consumer Goods." That's what goes on the financing statement. Of course, correspondingly, that's all that the searchers see when they find the financing statement, which tells them almost nothing about the collateral that the security interest relates to.

In the other provinces, the requirement is to describe the collateral by item or kind, so you actually have to say physically what the collateral is. In 2006, a recommendation was made that Ontario should move to the system adopted in the other provinces. The government at that time accepted the recommendation. Eleven years down the track, nothing has happened. I gather that the reason that nothing has happened is because that change would require enhancements to the register, and there is no funding for register enhancements.

Another example which the council touches on in its report is that the Ontario system, unlike in most of the other provinces, is not fully electronic. If you register a

financing statement, that is done on a completely electronic basis, but search certificates are still distributed in paper form.

That means a couple of things. First, there's a delay in getting the search certificates back while the paper is generated and while the paper is transported from where it's generated to the end user. Secondly, it means that users are often required to reconvert the paper search certificate into electronic form so that they can store it or so that they can transmit it. Really, in the 21st century, a PPS register should be fully electronic. Ontario is falling short in that respect.

I have some recommendations about how that might be achieved. I think the key problem is to guarantee proper funding for register enhancements from time to time. I don't have time to go into the details now, but I'm tabling a paper describing the Australian system, looking at how the Australians manage this challenge of funding regular register enhancements, keeping the register up to date and engaging stakeholders all along the way in the process. That's the first of my points.

The second of my points I'll just mention. There are a lot of personal property securities law reform initiatives going on around the country at the moment. It's very important, I think, that Ontario, in its efforts, coordinates with the work being done in the other provinces. So some process needs to be developed to keep the communication lines open.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Duggan. We'll begin our first round of questioning with the NDP: Ms. Fife.

Ms. Catherine Fife: Thank you very much, Mr. Duggan. Have you appeared before another committee on this issue?

Mr. Anthony Duggan: This is my very first time.

Ms. Catherine Fife: Okay. Sometimes it's like Groundhog Day around here; I'm sorry.

Your point is around the PPS registry, that you would appreciate the government modernizing the processes that would allow correspondence electronically, like email, like a modern sense of communication.

0920

Mr. Anthony Duggan: Not even email; straight off the screen. You key in your financing statement on the screen—it is a screen—and it is instantly transmitted to the register. Likewise, when you do a search, you key in your search requirements, and the data is instantly communicated back to you. So you don't have to leave your desk.

Ms. Catherine Fife: That makes a lot of sense.

Mr. Anthony Duggan: Absolutely.

Ms. Catherine Fife: But that's not in this bill.

Mr. Anthony Duggan: No, but it will come forward, I think, probably in the next round of recommendations from the Business Law Advisory Council, because they are making a couple of recommendations coming up which will directly impact the register. So it won't be possible to give effective recommendations unless something is done to fix the register.

Ms. Catherine Fife: Okay. So the council makes recommendations and then hopefully another piece of legislation comes forward that allows people to communicate electronically?

Mr. Anthony Duggan: Yes.

Ms. Catherine Fife: In Ontario.

Mr. Anthony Duggan: Yes.

Ms. Catherine Fife: In 2017.

Mr. Anthony Duggan: In 2017.

Ms. Catherine Fife: It's outrageous. I'm just joking, Mr. Duggan.

Mr. Anthony Duggan: The Ontario registry is stuck in the 1980s.

Ms. Catherine Fife: The 1980s?

Mr. Anthony Duggan: Yes. It was the first registry developed in Canada, and that was great at the time, but it really has not moved on very much since then.

Ms. Catherine Fife: Since 1980? Really?

Mr. Anthony Duggan: Yes.

Ms. Catherine Fife: Okay. Now, you did mention that some sort of enhancements were floated 11 years ago. Can you talk about those? What were those enhancements?

Mr. Anthony Duggan: Yes. It's a little bit technical, but in the financing statement, which is the registration document, the secured party has to describe the collateral that the security interest relates to in Ontario. This system was developed in the 1980s. The pro forma financing statement just has five boxes. The five boxes are labelled "Equipment," "Inventory," "Accounts," "Consumer Goods" and "Other." You cross the appropriate box, and that's all you have to do. That's great if you're registering, but if you're searching, it tells you almost nothing about what the collateral is, right?

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Catherine Fife: Okay. Basically, you're really here in advance of the next level of legislation that should be happening soon. Hopefully, it doesn't come in an omnibus bill like this, though, so that we can actually support a move like that without compromising health and safety regulation in the province of Ontario.

I do want to thank you very much, Mr. Duggan, for coming in.

Mr. Anthony Duggan: Okay. Just to complete my thought in response to your questions—

Ms. Catherine Fife: I don't think you're going to get a chance.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Fife.

Your thoughts will have to remain rhetorical, Mr. Duggan.

We now pass it to the government side. Madame Des Rosiers.

M^{me} Nathalie Des Rosiers: Welcome. It's such a pleasure to see you here.

Mr. Anthony Duggan: Yes. Long time no see.

M^{me} Nathalie Des Rosiers: I know. That's true.

Please finish your thought first, and then I have a couple of questions.

Mr. Anthony Duggan: Thanks so much.

The thought was that back in 2006, everybody agreed that that collateral description change should be made. The government adopted it, and then there was an 11-year silence. The reason, as I understand it, for the 11-year silence is that you would have to upgrade the register in order to implement the change, and it was impossible to acquire funding to make the change. There are so many examples of useful, substantive changes to the statute that could be made that are held up due to lack of money to enhance the register.

M^{me} Nathalie Des Rosiers: I want to say how delighted we are that you are keeping abreast of what's going on and helping us move, finally, I think, the PPSA into the next century. I think it's very important, and it's very important for business.

Can you tell us what would be the response of the industry to the proposal to upgrade the registry?

Mr. Anthony Duggan: Amongst other things, I serve on the Ontario Bar Association's personal property security law committee, and there are lots of industry representatives on that group from the whole range of the finance industry. They're desperate for an up-to-date, 21st-century register. My strong sense is that they would be prepared to pay for it. So if there's a worry about where the money would come from to enhance the register, I think there's plenty of capacity there to raise fees, and people would be happy to pay in return for an improved service.

This is basically what the Australians do, and I'm arranging to table a paper describing the Australian system and how they make their registry budget work.

M^{me} Nathalie Des Rosiers: So it's through levies that are being imposed?

Mr. Anthony Duggan: Sorry?

M^{me} Nathalie Des Rosiers: Is it through a levy, or is it through increased costs of registration or—

Mr. Anthony Duggan: Increased registration and search fees, yes.

Le Président (M. Shafiq Qaadri): Trente secondes.

M^{me} Nathalie Des Rosiers: Merci.

Mr. Anthony Duggan: As far as the provisions in the bill are concerned, I have no quibble with those, but I think they're the tip of the iceberg. There's a whole batch of other recommendations being generated both within Ontario and other provinces that deserve close consideration.

That goes to my point about the need to develop some process for the provinces to talk to one another—

M^{me} Nathalie Des Rosiers: As we move forward.

Mr. Anthony Duggan: Exactly.

M^{me} Nathalie Des Rosiers: Thank you.

Le Président (M. Shafiq Qaadri): Merci beaucoup pour vos questions, Madame Des Rosiers. Je passe maintenant la parole à M. McNaughton des conservateurs. Trois minutes.

Mr. Monte McNaughton: Do you have a presentation that you can distribute to the committee?

Mr. Anthony Duggan: I have two papers to distribute. One is the document I just referred to describing how the Australians work the financial side of their register. The other is a report produced by the Canadian Conference on Personal Property Security Law back in June of this year.

Mr. Monte McNaughton: So they're both ready now?

Mr. Anthony Duggan: They're both ready now. I understand that somebody is going to arrange for them to be copied.

Mr. Monte McNaughton: No further questions.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Mr. Duggan, for your presentation and presence.

CANADIAN FINANCE AND LEASING ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Mr. Michael Rothe, president of the Canadian Finance and Leasing Association. Welcome. As you've seen, it's five minutes for your opening address and then questions by rotation. Please begin now.

Mr. Michael Rothe: My name is Michael Rothe. I'm the president and CEO of the Canadian Finance and Leasing Association. I thank you for allowing me the time to present today. We're here today to support the changes set out in schedule 9 of the bill, specifically, updating the PPSA and RSLA legislation.

The first change proposed with regard to the section 7 updates is a housekeeping effort to fix some concerns around unintended consequences in the current language of the legislation. But the big change that is particularly beneficial to our membership is with regard to the ability to do a dual search.

The way that the legislation currently works is, an error, even a minor error, in the name or the birthdate of somebody who has been lent or has leased a motor vehicle could defeat the security interest in that asset. That asset is the only collateral available to our financing membership. Obviously, the risk associated with that would have to be priced in to the cost of borrowing.

Just to give you an example of the extent of this industry, the asset-based financing industry represents about \$380 billion in Canada a year. In the province of Ontario, just over a third of that, \$137 billion, is financed. The individuals and organizations that do this financing range from the large banks, such as TD, to motor vehicle and equipment manufacturers like Ford and IBM, but also to small, independent financing companies, sometimes run out of the homes of their owners. So there is a wide range of sophistication in the membership.

It's our recommendation that the dual search is a good idea. When 80% of assets that appear on the PPSA are motor vehicles, to be able to search by the name and the VIN is a good change and actually reflects the current state of the common law here in the province of Ontario.

Additionally, with our increasingly multicultural society, when you're dealing with minor name changes,

to be able to turn to a VIN, which is reflected on the vehicle itself, is consistent with other ministries—the Ministry of Transportation—and police databases. It just provides an additional level of certainty and security, not only for the businesses but also for the consumers who are having the security put onto their vehicle.

It would be excellent to see an extension of a VIN or an identification number registration to other types of assets—for example, equipment or farm equipment—which also have identifiers. So to be able to search by those—I'll call them VINs for shorthand—on other types of equipment would be beneficial.

0930

Additionally, following from the presentation that preceded me, I just draw to your attention that the 2013 auditor's report indicated that the fees collected from this system are roughly \$40 million a year, but the auditor estimated the cost to run the system at \$6.9 million, so there should be funding inherent in the system itself to support it.

Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Rothe. I'll begin now with the government side: Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Chair. Thank you, Mr. Rothe, for your presentation. I'm glad to know that you are very supportive of this bill. Can you elaborate? What does it mean to your members when you are saying you're supportive of the bill?

Mr. Michael Rothe: As I said in the presentation, the only collateral available to our members is the item that's being financed. The security put on that is through the PPSA or the RSLA. So to have that defeated by a technical error—if you just misspell somebody's name, potentially it could defeat it—obviously could be catastrophic, as they lose priority, for example, in a bankruptcy situation. That risk currently has to be priced into the provision of financing for consumers and for small and medium-sized businesses. The change would allow a much more efficient system and more faith in the security available to our membership—and consumers, ultimately.

Mrs. Amrit Mangat: So how would it help to reduce regulatory burden on the industry?

Mr. Michael Rothe: Basically, the way that it works currently, and particularly with motor vehicles, is that the only search done at the time that the lease or the financing is provided is on the vehicle identification number, relying on a UVIP, perhaps a Carfax or a Carproof. That's only done by VIN currently, but again, if the name is problematic—and the document that they typically use is a driver's licence, which is what most people carry along with them. The problem is, the legislation requires that you have to use something like a birth certificate. Well, the average consumer is not going to walk into their dealership with their birth certificate. They will walk in with their driver's licence. So to have the additional security of the VIN when you do the search is quite helpful.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Mangat. I'll now move to the PCs: Mr. McNaughton.

Mr. Monte McNaughton: Thanks. Could you just explain to me again about how this impacts farm machinery and farm equipment?

Mr. Michael Rothe: It doesn't. If we could extend it, it would.

Mr. Monte McNaughton: I see. So the current state versus—

Mr. Michael Rothe: Correct. It would only apply to the VIN, so vehicle identification numbers. It's good, because 80% of those assets are motor vehicle dealers. If you look at the PPSA now, it's motor vehicles that are represented, but it would be excellent to have this extended to protect another 20% of asset types such as farm equipment and other machinery.

Mr. Monte McNaughton: Great. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McNaughton. To Ms. Fife, NDP: three minutes.

Ms. Catherine Fife: Thank you very much, Michael, for coming in and speaking specifically to this part of schedule 9, which I believe is 46.1. Is that the section?

Mr. Michael Rothe: That's what they're going to add in, yes.

Ms. Catherine Fife: Can I just ask you this: How long have you been asking to have greater flexibility or leeway as it pertains to searches like this? This is basically a common-sense change that's being made. How long has your association been asking to be able to do this?

Mr. Michael Rothe: I can say that the first submission that we submitted to the government was in 2015, arising out of the Business Law Advisory Council recommendations. We supported a number of the recommendations arising out of that committee report.

Ms. Catherine Fife: Okay, thanks. You would like, though, to see an amendment to this particular subsection to include farm equipment?

Mr. Michael Rothe: Yes, it would be wonderful to see that extended to other types of equipment that have an identification number.

Ms. Catherine Fife: That makes sense. We'll see how long that takes. But also, you were commenting on Mr. Duggan's presentation previously around the—

Mr. Michael Rothe: Just providing some context. There was some talk about the ability to fund this, and I could provide us with the numbers from the 2013 auditor's report.

Ms. Catherine Fife: So just for clarity, the Auditor General said that the PPS registry drew in revenue of \$40 million?

Mr. Michael Rothe: That's right.

Ms. Catherine Fife: And the operating cost of that registry was \$6.9 million.

Mr. Michael Rothe: Correct.

Ms. Catherine Fife: So there is definitely money to allow people to communicate electronically in 2017, don't you think?

Mr. Michael Rothe: I hope so.

Ms. Catherine Fife: Okay. Thank you very much, Michael.

Mr. Michael Rothe: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Fife, and thanks to you, Mr. Rothe, for your deputation on behalf of the Canadian Finance and Leasing Association.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Shafiq Qaadri): I'll invite our next presenters to please come forward, from the Ontario Federation of Labour: president Chris Buckley and executive director Rob Halpin. Welcome, gentlemen. Please introduce yourselves and be seated. You've seen the drill: five minutes' opening address, beginning now.

Mr. Chris Buckley: Thank you. My name is Chris Buckley. I'm the president of the Ontario Federation of Labour. To my left is my assistant, Rob Halpin, who's also the director of government relations at the federation.

The crux of schedule 4 in Bill 154 says: "Where a regulation governed by this act is made or approved and has the effect of creating or increasing one or more administrative costs, a prescribed offset must be made within a prescribed time after the regulation is made or approved."

This is poor public policy. A new regulation does not mean an existing one is no longer necessary, but this is the premise of schedule 4. The weak language in this bill makes it unclear what will be deregulated—specifically, how workers and their families will be impacted.

The legislation does not define "administrative costs" or "offset"; this is left to the government of the day's interpretation. Any future government could use this power to substantially expand the scope of both costs and offsets. The government of the day also has the power, for example, to exempt some regulations and not others.

Bill 154 has the potential to make it harder to protect the public interest because (1) it creates a barrier to introducing new regulations, and (2) it creates an incentive to get rid of existing regulations, even those that continue to protect the public. What will this mean for workers' health and safety, for air or for water pollution, or for our food supply? This legislation has the potential to negatively affect so many facets of our lives.

Also, why does this legislation only consider the corporate or industry concerns about the cost of regulation? What about the cost to the public if the government fails to act? Again: What will inaction mean when there are threats to our health and safety in the workplace? What will inaction mean to future generations if we don't tackle climate change?

This level of deregulation is awfully reminiscent of the Mike Harris era, and it also mirrors a recent executive order issued by Donald Trump, reducing regulation and controlling regulatory costs. That's not the direction we want to follow here in Ontario.

Schedule 4 of Bill 154 significantly jeopardizes this government's intent to ensure that workers have the right to protections and fairness in their workplaces. We know that it is people who drive Ontario forward—that is, workers and their families—who are the backbone of Ontario's economy. They deserve greater protections, not less.

I've had the opportunity to review the legal opinion referenced earlier today by CUPE Ontario and can say with great confidence that the OFL fully supports and joins with our affiliates and calls on this committee to remove schedule 4 from this proposed legislation.

Thank you very much for your time.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Buckley.

We will now move to the PC side: Mr. McNaughton.

Mr. Monte McNaughton: Thank you very much for your presentation. As you mentioned about schedule 4, we heard this presented earlier today by CUPE, and I had asked a couple of questions, so I don't have any more. Thank you for your time today.

Mr. Chris Buckley: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McNaughton.

To the NDP side: Ms. Fife.

Ms. Catherine Fife: We appreciate the OFL coming in and also looking at this entire piece of legislation through the lens of how it will affect workers. I would like to say that we also share the concerns on schedule 4.

When we look at, potentially, a bartering system for regulation, if this passes as is written right now, how do you see the health and safety of workers potentially being affected?

Mr. Chris Buckley: That's a huge concern for us at the Federation of Labour. As you know, we're strong advocates to ensure that we create the safest workplaces we possibly can across this entire province.

The uncertainty is what bothers us; the unknown is what bothers us; the potential to have our public services negatively impacted affects us. It's the unknown that is really the big elephant in the room here. I don't understand why any government is going to take the chance to jeopardize any of our public services across the province of Ontario and, most importantly, the potential negative impact to workers and their families.

0940

Ms. Catherine Fife: It was raised earlier that it's surprising that such a contentious and dangerous piece of legislation is contained within an omnibus bill. You've heard some basic common-sense small regulatory changes that need to be modernized—truly, they do—and then you have schedule 4. Are you surprised that this government has buried this schedule in an omnibus piece of legislation like this?

Mr. Chris Buckley: Somewhat, I am. I guess it comes down to the issue of total transparency. I would ask this committee to look at this piece of legislation to ensure that, whether it's the government of the day or any future governments, there are safeguards put in place in writing

to ensure that workers and their families across this province are not negatively impacted.

Ms. Catherine Fife: Thank you very much.

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Martins.

Mrs. Cristina Martins: Thank you very much, gentlemen, and thank you for presenting here before us today. Thank you for the work you do every day to ensure the health and safety of workers across Ontario. It is much appreciated.

You commented something about not taking Ontario in the same direction that our friends to the south are taking the US. That's not the direction that we want Ontario to go—

Mr. Chris Buckley: Thank you.

Mrs. Cristina Martins: —definitely not. We want Ontario to continue to thrive as a province—

Mr. Chris Buckley: So do we.

Mrs. Cristina Martins: —to continue to create the jobs and the investments that we are currently seeing here in the province of Ontario. We're in a very competitive environment these days economically and for many other reasons as well.

I just want to reiterate—I believe you were here earlier when there was an earlier deputation, but the preamble for schedule 4 of Bill 154 has legal consequences—all preambles have legal consequences—and state very clearly the intent of the bill. The intention of this bill includes, and I'm going to quote: "Ontario is committed to fostering a strong business climate that supports growth while ensuring appropriate regulatory oversights that protect the public, workers and the environment."

We need to ensure that we continue to protect the public, the workers and the environment as we work through this bill. There was no intention whatsoever to deregulate or take away regulations that will bring any type of health or safety issues or concerns, whether it's the public, the employees, workers or the environment.

I also appreciate your comments around perhaps the uncertainty on some of the wording and not being very clear as to what some of the definitions mean. There is a draft regulation currently up on the website, and I'm going to invite you to provide your comments there. That's why we have this process in place in terms of having this committee and hearing what people have to say about this particular bill.

There are draft regulations up online that provide more clarity around some of the definitions, perhaps some of the concerns you've raised.

I did want to thank you for being here. I don't know if you want to add anything else to that.

Mr. Chris Buckley: No, I do. Thank you very much for your comments. Listen, folks: I understand you have very difficult jobs, but I also have a difficult job. My main focus is on working people and their families in every community across this province. I've represented workers for 30 years now in my life, and I understand that there's some good work being done in regard to Bill 148. I give the government of the day credit for that.

You all know we're asking the government of the day to go further than Bill 148—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Martins, and thanks to you, Mr. Buckley and Mr. Halpin from the Ontario Federation of Labour.

ONTARIO NONPROFIT NETWORK

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward: Ms. Cathy Taylor, executive director of the Ontario Nonprofit Network—just in time.

Do you have a submission to be passed out to the—

Ms. Cathy Taylor: I do.

The Chair (Mr. Shafiq Qaadri): If you might—our able Clerk will distribute that now.

Please be seated. You have five minutes for an opening address and then questions, three minutes each party. Please begin now.

Ms. Cathy Taylor: Thank you, Chair and members of the Standing Committee on Justice Policy for taking the time to hear from the Ontario Nonprofit Network this morning on this important piece of legislation, Bill 154.

I know you are all familiar with Ontario's non-profit sector. I know you are all volunteers with the sector and understand that there are 55,000 organizations in our province that are registered not-for-profits, many of which are purely volunteer-driven: our Rotary clubs, our soccer clubs, our sports organizations, our arts camps and also our food banks, mental health providers and so much more. They all make up the diverse non-profit sector that we count on. Government, in particular, counts on the non-profit sector both to provide services, perhaps through funding or transfer payment agreements, but also because your constituents rely on our sector.

All of these organizations have something in common: They are incorporated as registered not-for-profit organizations under antiquated 60-year-old legislation in Ontario. As you may be aware, the Ontario Not-for-Profit Corporations Act passed third reading in 2010—seven years ago—and it has not yet been proclaimed. The non-profit sector's 55,000 organizations in Ontario still do not have the current legislation and frameworks they need to operate. Every one of these organizations has a volunteer board of directors. If we assume an average board of eight people, that's over half a million board members who are responsible for this legislation and need to understand it to support the good governance of their community organizations. Bill 154 has provisions in it to proclaim this act that we need to get done.

Ontario's non-profit sector is also a major contributor to our economy, contributing \$50 billion to the economy. As employers, we employ over one million people in Ontario, so a very significant piece of the labour force in addition to the five million volunteers we engage. We are counted on by our communities to deliver programs and services often in partnership with the provincial government. As an essential pillar in Ontario's economic and social fabric, this government has a responsibility to

ensure our governing legislation provides an enabling framework for us to operate in.

Last updated over 60 years ago, the current legislation governing the sector is wholly inadequate. For example, it doesn't even allow us to use electronic records, which means that almost every non-profit in Ontario is offside of the legislation. We all use electronic records. We all have electronic meetings by teleconference. This legislation doesn't even allow us to do that. Moreover, the act's complicated language makes it difficult for non-profit leaders and their legal counsel to understand its application in the context of the changing governance challenges of the sector.

New legislation is urgently needed to support Ontario's non-profit and charitable organizations, so that they can continue to build healthy, vibrant and inclusive communities. Just as any other sector would require, the non-profit sector also needs to be able to do its work under modern corporate governance legislation. The delay for the last seven years has created harmful uncertainty for the sector. We have heard very much from the 55,000 organizations in Ontario about why the government doesn't value the work they do and why they created the enabling legislation we deserve.

Bill 154 includes the technical amendments required to bring the ONCA into law. It also has recognized the concerns of stakeholders, including ONN and the Ontario Bar Association, and has included amendments to the original act to make it even easier for the non-profit sector to comply. Finally, Bill 154 includes changes to the current corporate law, the Ontario Corporations Act, that currently governs registered non-profits so that it's consistent with ONCA during the transition period.

On behalf of our extensive network of non-profits and charities, we respectfully request the government of Ontario to expediently pass the sections of Bill 154 related to the Ontario Non-for-Profit Corporations Act and the Ontario Corporations Act so that the technical amendments that are needed will get done.

In addition, we do have one comment on one other section of Bill 154, which is schedule 2, regarding the Charities Accounting Act. While we are fully supportive in enabling the investment funds of Ontario charities to be invested in organizations with a public benefit purpose, this section is very unclear, the sector wasn't consulted and we're unsure that it's going to meet the intended outcomes. We know that there is a detailed submission from the Ontario Bar Association charity division on this, and we look forward to more conversations about this particular section.

Thank you for your serious attention to this matter and for your leadership. We look forward to continuing to work with this government to make sure the non-profit sector's legislation—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Taylor. We now pass to the PC side: Mr. McNaughton.

Mr. Monte McNaughton: Great. I was thinking it was Ms. Fife this time.

The Chair (Mr. Shafiq Qaadri): Ms. Fife, go ahead.

Ms. Catherine Fife: Thank you, Cathy, for coming in.

Ms. Cathy Taylor: You're welcome.

0950

Ms. Catherine Fife: It is unfortunate that the technical amendments that are in Bill 154 are taking so long. I do want to say that your opening comments relating to the not-for-profit sector are completely accurate; in fact, in many communities across this province, it's the not-for-profit sector that is essentially holding a very frayed social fabric together. So I want to say thank you for that work.

It's unfortunate that it's contained within an omnibus bill for us, because you've heard that we've had some concerns with regard to schedule 4. I'm just wondering if you've had a chance to evaluate schedule 4 and how it may impact your sector, because the act defines a business as every trade, occupation, profession, service or venture carried out with a view to making a profit. The concern is that the bill will not relieve the operations that do not have a view to making a profit, such as public hospitals, schools or child care centres.

There is this potential, as you say, because this government has a tradition of unintended consequences, if you will, of potentially negatively impacting the not-for-profit sector by further advantaging those service industries like long-term care and child care, the services that some of our not-for-profit sector has filled in. Have you had a chance to do any assessment on schedule 4 in your sector?

Ms. Cathy Taylor: We have looked at schedule 4. We don't have a position on schedule 4 at this time. We've been working quite closely with the government's public servants around modernization and administration processes of their funding to the non-profit sector through something called the transfer payment administration project. That has been our targeted area in terms of reducing the red tape and the regulatory burden on non-profits and charities. To that end, we did not specifically look at schedule 4 in terms of the sector.

Ms. Catherine Fife: I've seen some of the administrative processes that you have to go through and I've seen some of where that funding is going instead of to the front line. This piece of legislation will not address that for you.

Ms. Cathy Taylor: No, it will not address that.

Ms. Catherine Fife: That's an important part of addressing so-called red tape and administrative costs, so please reach out to us in that regard. Also, schedule 2—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Ms. Catherine Fife: Quickly, on unintended consequences: Did you want to elaborate on that?

Ms. Catherine Fife: Yes, what schedule 2 looks at is how charities and charitable foundations can invest. It's very narrowly defined to investing in specific missions. For example, if a foundation has dollars to invest outside of what they give to non-profits and charities through their front end—but if they have dollars in their back end to invest, usually they can invest in whatever they like. This specifically says that if you're going to do—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Fife. Now to the government side: Mr. Potts.

Mr. Arthur Potts: Thank you, Ms. Taylor, for being here and bringing the non-profit voice—very important to hear, and the great work that is done with all these volunteers and organizations. I actually wanted you to continue on Ms. Fife's line, because I also was very interested in the kinds of investments that you would see non-profits doing that would be or might be curtailed because we haven't got it exactly right. Would you propose a specific amendment? What kind of investments would you be talking about?

Ms. Cathy Taylor: We've consulted with legal counsel around specific amendments, and, to be frank, we find the schedule quite confusing. The Ontario Bar Association charity lawyers have some very specific amendments. Our concern is that the sector wasn't consulted in that schedule to begin with. The unanticipated outcome, I think, is—as I was starting to explain—that it's specifically about impact investing for the mission. So, for example, if a foundation was a children's foundation, on the back end they can invest in whatever they want, as businesses can. But this says that if they want to do impact investing, then they can only invest in children's investment. So we want a broader perspective.

Mr. Arthur Potts: Okay. The other piece I want to talk about: We've heard a lot about how it's too bad this is an omnibus bill, but I'm guessing you're pretty happy. It's one of the things that, having been elected in 2014, I wasn't aware of the 2010 act, which is still sitting there. You must be pretty happy that—it's way into this omnibus bill—

Ms. Cathy Taylor: We're pretty happy that it's getting its way through the system.

Mr. Arthur Potts: Notwithstanding an omnibus bill. It's good to be here.

Ms. Cathy Taylor: Yes. It has been a long seven years, but we're pretty happy it's getting through the system, and we really do want to see this happen.

Mr. Arthur Potts: That's fantastic, because it's really important. There are so many moving parts in government, as you know. When you're looking at red tape, you believe it's going to be a big bill because there are all these different ministries where you can find opportunities to make Ontarians' lives easier. I certainly hope that the new Corporations Act for non-profits will do exactly that.

Ms. Cathy Taylor: We certainly hope so.

Mr. Arthur Potts: And you'll be able to do electronic filings.

Ms. Cathy Taylor: Yes, absolutely, electronic filings—ServiceOntario will now service non-profits, which they never had. So there are great implications for this sector.

Mr. Arthur Potts: So, from your perspective, we got this part of it right.

Ms. Cathy Taylor: You got that part of it right, yes.

Mr. Arthur Potts: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Potts. To the PC side: Mr. McNaughton.

Mr. Monte McNaughton: Great. Thank you very much for what the Ontario Nonprofit Network does. I know that all of our communities are very thankful for all of the non-profit groups that contribute to our communities.

I will just add this: Mr. Potts said there are so many moving parts in government. I would say there are so many slow-moving parts in government, as we all know.

My only question is: What was the reasoning for the 2010 legislation to not have been proclaimed? What was the reasoning from the government?

Ms. Cathy Taylor: I think it's certainly something to ask your government colleagues, but we understand that there was a bill that died on the order paper in the minority government and that it has just taken time to get through the system.

Mr. Monte McNaughton: Right. We won't point fingers, then, on that.

I will say that we, as opposition, have been very complimentary of Minister Duguid for dealing with the electronic filing issue. I think that's a very sensible, common-sense thing that should have been done years ago, so we're completely on board with that and we will be supporting this legislation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McNaughton, and thanks to you, Ms. Taylor, for your deputation on behalf of the Ontario Nonprofit Network.

The committee is in recess until 2 p.m. today in this room.

The committee recessed from 0956 to 1401.

TRILLIUM AUTOMOBILE DEALERS ASSOCIATION

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. I now reconvene the Standing Committee on Justice Policy on Bill 154, An Act to cut unnecessary red tape by enacting one new Act and making various amendments and repeals.

The first presenter of the day is Mr. Frank Notte, director of government relations, Trillium Automobile Dealers Association. Welcome. You've likely seen the drill: five minutes for opening remarks and then questions by rotation. Please begin now.

Mr. Frank Notte: Good afternoon. I'm Frank Notte, director of government relations for the Trillium Automobile Dealers Association. Since 1908, our association has been the voice of Ontario's 1,000 new car dealers, representing every brand and franchise. Our members employ 53,000 people and generate \$37 billion per year in economic activity.

I'm here to recommend a proposal to improve Bill 154 that would cut red tape in Ontario's auto sector and make life easier for consumers and auto dealers. Specifically, I'm asking the committee to consider amending Bill 154 to include Bill 3, Cutting Red Tape for Motor Vehicle

Dealers Act, 2016, which is currently before the Legislature.

Bill 3 is a private member's bill introduced by Leeds-Grenville MPP Steve Clark. It amends the Highway Traffic Act to allow registered motor vehicle dealers to do any of the following by electronic means:

—apply for a permit, number plates or a validation for a vehicle;

—apply for a new permit for a vehicle; or

—apply for a used vehicle information package.

If passed, Bill 3 would cut red tape by eliminating the outdated and unnecessary requirement for auto dealers to physically transport paperwork back and forth to a ServiceOntario location upon completion of a sale.

Currently, auto dealers either drop off paperwork and return at a later date, or wait in line, competing with the general public for services. Instead, auto dealers could register vehicles and license the newly sold vehicles online from their dealership. This digital process would cut red tape and save auto dealers time and money by not having staff make multiple trips to a licensing office upon completion of a sale.

Bill 3 also benefits consumers by allowing them to take possession of their newly purchased vehicles minutes after signing on the dotted line, rather than wait hours or days and make another trip to the dealership to pick up their new vehicle.

In today's age, we can pay our mortgage, buy stocks, purchase goods, renew our driver's licence, order birth certificates and do a host of other things online. We believe vehicle registrations should be no different.

Bill 3, previously known as Bill 152, received all-party support during second reading debate in December 2015. This non-partisan and reasonable bill, we believe, should move forward without delay, and amending Bill 154 to include Bill 3 is one way to accomplish that.

After a pilot at two new car dealerships, in 2012 the Ministry of Transportation announced that the pilot was "successful" and that digital vehicle registration would be extended to 5,000 auto dealers starting in 2012-13. Despite the announcement, the project was never rolled out.

I have some comments from the two dealers who were involved in that pilot. Andrew Caletti, the dealer principal of Belleville Toyota, said:

"The ability for us to turn licensing around when we need to, it's fantastic.

"The number one reason we have to hold customers up on delivery is licensing. It isn't reasonable to expect me to have a business model in which I can afford to have someone shuttle back to the licence bureau every 10 minutes."

Damien O'Reilly, vice-president of Trans Canada Nissan in Peterborough, said, "The overall experience is better for the customer because of the fact they can pick up their car when they want instead of sitting around waiting for licensing."

Ontario is far behind other jurisdictions. Quebec has offered digital vehicle registrations to its new car dealers

since 2002, and New York state dealers have had a similar program since the mid-1990s. New Brunswick, Newfoundland and Labrador, PEI, Michigan and a number of other US states also provide this service. We feel Ontario's time has come to do the same.

We applaud Bill 154, schedule 4, section 6, which permits that "a business that is required, for any reason, to submit documents to a ministry of the government of Ontario in order to comply with a regulation may, at the option of the business, submit the documents electronically."

We think amending Bill 154 to include Bill 3 perfectly exemplifies that policy and, by doing so, will cut red tape in Ontario's auto sector, make life easier for auto dealers and consumers, and make the vehicle sales process worthy of the technological age we live in.

The Chair (Mr. Shafiq Qaadri): Thanks very much, Mr. Notte, for your precision-timed remarks. Now we'll move to the government side. Mrs. Martins?

Mrs. Cristina Martins: Thank you, Mr. Notte, for being here today and for presenting on behalf of Trillium Automobile Dealers Association. I appreciate the comments.

I just wanted to highlight here, and perhaps this is something that you're already well aware of—I know there are ongoing conversations between yourself and various ministries, perhaps, here on this issue. But ServiceOntario does continue to look for fiscally responsible ways to expand online access to high-demand services for individuals and businesses. The registration of motor vehicle dealers is one of those things, and we continue to look at various ways of how we can actually move forward with this.

As I'm sure you can appreciate, when we're talking about a system that's Ontario-wide and with different dealers having their own systems, we are actually looking at huge logistical issues as well as many different IT costs in the implementation of the system across the province, so things do take a little bit longer. But just to assure you—and I know that you've had ongoing conversations with various ministries here. I just want to encourage you to continue working with the Ministry of Economic Development and Growth.

This is an annual bill, and this point in time is not where we would perhaps make legislative changes, but we do appreciate you coming in.

Aside from that one issue, which is what you focused on mainly, what does it mean to your members that the government is committed to reducing burden by bringing forward bills such as this one on a regular basis? What does that mean for your customers?

Mr. Frank Notte: I think it's important, because that's one common thing we always hear about: If ministry A is implementing an act with regulations and ministry B is doing the same thing, the dealers or any business are always at the brunt of it. So what one ministry might think they are doing, and it might be well—it's always the dealer that gets the cumulative aspect of

all the regulations. I'm glad it's an annual bill. I encourage it, and we're pleased to see it.

Mrs. Cristina Martins: Perfect. Those are my questions for today. Thank you for being here.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Martins. To the PC side: Mr. McNaughton.

Mr. Monte McNaughton: Thanks for your presentation today. I always respect and look forward to the common-sense initiatives that your organization brings forward.

I, for one, was hoping to see the Drive Clean program scrapped in this legislation. I've always said that that's a red-tape initiative that would be worthy of this government to take on.

But regarding Bill 3, can you repeat again some of the results through the pilot projects that have happened?

Mr. Frank Notte: Yes. The MTO, at the time, announced that the pilot was successful—it's in your package there—and they actually announced that the program would roll out to 5,000 dealers. What that tells me is that there's no way an announcement of that magnitude could have not gone through cabinet and Treasury Board in order to make that announcement.

I will give credit to the ministry, though: They did make their red tape reduction challenge. I think they're looking to implement it in about eight years. That's great, but it should be a lot sooner, especially because it was announced back in 2012. We don't see any reason why there should be a delay.

Mr. Monte McNaughton: Okay. No, I agree.

My colleague has a question.

The Chair (Mr. Shafiq Qaadri): Mr. McDonell?

Mr. Jim McDonell: According to this, we have Quebec that has had it since 2003 with the licensing, and I see the other provinces and states. Is there any reason why you think Ontario couldn't do it? I would encourage the government to look at some of the software that the other provinces have instead of trying to reinvent the wheel, because they haven't been very successful in the past in doing that. Here's a clear example where they like the program, it's successful, but you're being told, "Come back next year in case the bill—for next year, try, but no guarantees."

1410

Mr. Frank Notte: I think during second reading debate of the bill, some of the government members talked about the logistical challenge and security around that. Again, I go back to that MTO announcement.

Mr. Jim McDonell: They do it in other places.

Mr. Frank Notte: Yes. I think everyone in this room makes online financial transactions and doesn't worry about any of the financial institutions.

Mr. Jim McDonell: Unfortunately, we've had a few experiences where the government has failed drastically—with their eHealth and other programs—but this is something that other places have; surely, we can adopt the software that they use and make it work.

Mr. Frank Notte: I agree.

Mr. Jim McDonell: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McDonell.

To the NDP side: Madame Fife.

Ms. Catherine Fife: Thank you very much, Frank, for coming in and for making a very valid point in reminding this committee that this has been an ongoing process.

My question is about process because in 2012-13 that announcement was made and because the province has done a pilot and because MTO has said that this would increase accessibility for car dealerships.

Were you consulted, and did you have an opportunity to provide meaningful feedback to Bill 154 as it stands right now? The government could amend this legislation; they still have the opportunity to do so, so this is your opportunity to make the case for that amendment.

Mr. Frank Notte: Yes. That's why we're here, obviously, today, and we made that case in previous years.

Ms. Catherine Fife: You don't want to hear, "Come back next year and we'll see what this looks like next year." Is that right?

Mr. Frank Notte: Well, the announcement was made, so, obviously, no, but we understand the process. We keep reminding the folks at the various ministries that it's an important initiative and it should be passed right away.

Ms. Catherine Fife: In the article that you shared with us—because, actually, this came out of the Greater Peterborough Chamber of Commerce when the local ServiceOntario was closed and then they brought in this pilot. Then the minister at the time, Minister Leal, wouldn't say how much it would cost the province to extend the service to all dealerships. That's the type of information that will be analyzed during the pilot.

Do you know of a cost? What would it cost the province—

Interjections.

Ms. Catherine Fife: Hey!

What would it cost the province to do this?

Mr. Frank Notte: It has never been disclosed to me—

Ms. Catherine Fife: It has never been disclosed?

Mr. Frank Notte: —so the answer is, I don't know.

Ms. Catherine Fife: Is that a potential reason, then? Do you think that the cost to actually extend this program out to dealerships would actually be, potentially, a cost savings? There are people who are waiting in line. It's a delay in the processing of your members, right?

Mr. Frank Notte: Absolutely. We also compete with, let's say, senior citizens who need their health card. What we're saying is: In this very narrow, specific area of getting the cars on the lot off the lot, allow the dealers to provide this service. That way, it frees up ServiceOntario staff.

Ms. Catherine Fife: Yes. Most ServiceOntario kiosks have already been privatized in the province of Ontario, so this isn't a philosophical discussion or ideological discussion on where this service should be delivered, right? It's about efficiency, and it has all-party support.

Percy Hatfield, our member, spoke in support of the automotive industry and sector when this bill came before the House, and so it's definitely something that we would be supportive of.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Fife, and thank you, Signor Notte, for your deputation on behalf of the Trillium Automobile Dealers Association.

RESCON

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Mr. Michael de Lint, director of regulatory with RESCON.

Mr. Potts, I believe that was Ms. Fife's attempt to elicit silence, so I'd encourage that.

You have five minutes. Please begin.

Mr. Michael de Lint: Okay. Thank you very much. Thank you for the invitation to the Standing Committee on Justice Policy. Thanks for inviting RESCON.

Basically, I'll give you a little bit of background on who we are and our involvement in this broader issue. Then I will discuss, basically, our very strong support for schedule 4, which would enact a new act, the Reducing Regulatory Costs for Business Act, 2017, as, of course, you know.

First of all, RESCON is an organization representing low-, medium- and high-rise builders—about 95% of construction in the greater Toronto and Hamilton area. It has about 200 builder members.

As an organization, we have been involved in regulatory streamlining and reform issues for quite a long time. We were involved, back in 2003, in some major changes to the building regulatory system. We have some corporate memory and history in building regulatory reform and working with the province on a range of issues over the years.

Recently, RESCON and Ryerson published a report on streamlining the building process, responding to problems with respect to very long delays in building approvals. One of the recommendations deals with e-permitting.

We have assembled a multi-stakeholder working group, including the president of BILD, the president of the Ontario General Contractors Association and the chief administrator officer for the Ontario Building Officials Association, to work towards a best-practice guideline that would recommend how to implement some of these major changes, including establishing a pilot project with municipalities on e-permitting. A very fundamental part of that pilot project would be linking in provincial—

The Chair (Mr. Shafiq Qaadri): Mr. de Lint, could you move away from that microphone?

Mr. Michael de Lint: That's too close? My apologies.

An important part of that would be linking in provincial agencies that are, in various ways, involved in development approvals. Let me go into some specific aspects of this—and I know I have very little time.

With respect to schedule 4, there are two principal initiatives that we want to strongly endorse. I also want to suggest some minor enhancements to those as well.

With respect to the guaranteed electronic transmission option for provincial agencies, of course we strongly endorse that. It's very fundamental to improving e-permitting in Ontario. Many municipalities already have e-permitting systems, but they are limited because they don't interact with the key provincial agencies that are involved in development approvals. So having the provincial agencies do this is very important.

What we would suggest as a minor enhancement to this would be that the provincial agencies operate on a common platform. For example, a developer would apply to a municipality and submit tombstone information on a project, including the location, relevant maps, etc. That information should be easily submitted to all the relevant agencies—transportation, conservation authorities under the Ministry of Natural Resources, as an example—so that that information doesn't have to be repeated. Sometimes some basic information is asked for, but in slightly different ways. That could be made more consistent.

We also think it's an opportunity for the provinces to look at something which is not as common as it should be, which is high-resolution digitized GIS-based mapping, so that developers and municipalities and all parties involved in the process have access to that online. We have some consultants who are assembling this information, at considerable cost to themselves, but you have to subscribe to get access to this. But up-to-date GIS-based information would be very useful.

With respect to rewarding good actors: again, a very significant and important element in your package and it will certainly improve the regulatory process by recognizing the important contribution of the practitioners to compliance. It's also important in terms of risk management.

We support this measure. We would suggest another additional criteria that could be used to streamline the process and recognize the important role of practitioners in compliance—

The Chair (Mr. Shafiq Qaadri): Thirty seconds.

Mr. Michael de Lint: —which would be to include qualifications of the practitioners and the quality of the submission. In addition to a past record, which takes to develop and is very important, we would suggest that in addition to that. These are merely enhancements to what are essentially very good proposals.

I think, as a general comment, any kind of proposal to enhance the business friendliness of a regulatory regime should look at issues like risk-based regulations, proportionality, clarity and transparency—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. de Lint. We'll pass it to the PC side: Mr. McNaughton.

Mr. Monte McNaughton: Thank you very much for your presentation today. We have no questions.

The Chair (Mr. Shafiq Qaadri): To the NDP side: Ms. Fife.

Ms. Catherine Fife: I basically have one simple question because we have serious concerns with schedule 4, I must tell you.

To your last point, Michael, around rewarding good actors: Do you have any concerns about the fact that there's very little clarity on that criteria, what would constitute a good actor?

Also, it's left to regulation and to cabinet, and so therefore could be very subjective. You do have a government that likes to pick winners and losers in the economy, and we would argue that that actually compromises confidence in the economy.

1420

Mr. Michael de Lint: Well, this is a very good point. In fact, one of our regulatory reform suggestions we have as part of this project that we're working on with a multi-stakeholder group is to look at the possibility of fast-tracking applications submitted that include certain key information and are provided by certain qualified individuals. We will be very specific about that in the recommendations that we develop.

A good example of how an application dealing with building permits can be more robust is the example of British Columbia, where there's a requirement that for critical building elements there's third-party peer review by approved individuals, and a coordinated design. That is submitted and those applications are processed more quickly, because one big problem in the building area is you have multiple professionals and it's not a very coordinated product in many cases.

Similar ideas could be applied in the planning area. We would be very specific about what would constitute an application that deserves to be fast-tracked or in some ways can be approved with less scrutiny.

I think the criteria around what is a practitioner who has a good compliance record would need to be defined a little bit more clearly, but I would suggest adding additional criteria as well.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Fife. To the government side: Ms. Hoggarth.

Ms. Ann Hoggarth: Good afternoon. Thank you for your presentation.

I just wanted to make a statement beforehand. You talked about a common platform for agency services, and I think that, because the government is continually reviewing IT, it probably wouldn't legislate a common platform because of that.

That being said, with the proposed legislation in schedule 4 giving businesses the opportunity to submit documents electronically, we know that Ontario will be a leader within Canada for e-permitting. Besides interested municipalities, what other government agencies would need to get involved at this point?

Mr. Michael de Lint: Well, there are certain key provincial agencies involved in the building approvals process. We have the ministry responsible for conservation authorities; they are key. If you look at the list of agencies that must be circulated for site plan approval, they are certainly one of them. There's the Ministry of

Transportation. There are a few that are key, and I think if those two are part of this common platform, that would be a very good start. In our proposed pilot project that we hope to have at the end of November with expert international firms, we would, in that process, identify the key ones, but I think those are probably the key ones as a starting point. They don't need to be all of them. Ministries operate in different realms with different sectors, so for that sector, that would be a starting point.

Ms. Ann Hoggarth: Okay. I just wondered if you had any estimates of what a centralized e-permitting system would cost to develop and to maintain.

Mr. Michael de Lint: Well, we have had discussions with a firm. It so happens that they contacted us, and so we started working with them to some extent. They have estimated the cost of a proof-of-concept pilot project that would include interoperability and a common platform with certain agencies at \$2.5 million. Going to a full-scale system, there's some additional cost. In Finland, the government there, the ministries of environment and finance, I think, put about \$4 million into their e-permitting project. So there is some cost, but if it involves multiple municipalities, then the cost could be spread out.

Ms. Ann Hoggarth: Okay. Thank you very much, Mr. de Lint.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Hoggarth, and thanks to you, Mr. de Lint, for your deputation on behalf of RESCON.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Chair (Mr. Shafiq Qaadri): I now call our final presenter of the day: Ms. Nadarajah, counsel for the Canadian Environmental Law Association. Welcome. You have five minutes for your opening address. Please begin now.

Ms. Ramani Nadarajah: Thank you, Mr. Chair. My name is Ramani Nadarajah. I'm counsel with the Canadian Environmental Law Association.

CELA wants to express to this committee in the strongest possible terms our serious concerns and opposition to certain provisions in Bill 154. Our concerns are directed at schedule 4 of this bill.

In our letter to the committee, we have focused on four sections in schedule 4. They are sections 2, 4, 7 and 8. I'm going to deal briefly with each of these sections.

Section 2 of schedule 4 requires that when a regulation is approved and has the effect of creating administrative costs, a prescribed offset must be made. This is generally referred to as the one-for-one rule. This section will have a chilling impact on the government's ability to enact regulations to protect public health and safety and the environment. It would, in effect, impose a regulatory freeze. CELA believes that this is a profoundly misguided approach which would undermine crucial public protections provided under provincial laws.

Under the proposed rule, if the government enacted a new regulation—for example, to address toxic air emissions—it would need to repeal or weaken another

regulatory requirement, such as provisions to ensure safe drinking water. The one-for-one rule would fundamentally jeopardize the health and safety of Ontarians.

The adoption of similar provisions in other jurisdictions, such as the UK, is considered to have contributed to the UK government's failure to adopt fire safety laws which could have prevented the deadliest fire in Britain earlier this year, resulting in the death of 80 people.

In the Ontario context, it should be noted that the adoption of similar provisions was determined to have contributed to the Walkerton tragedy, which resulted in seven deaths and caused 2,300 people to become ill as a result of drinking water contaminated with E. coli.

The adoption of section 2 of schedule 4 raises a very real concern that the Ontario government will forgo enacting regulations to protect public health and safety even in the face of clear and pressing needs.

I'm now going to move on to deal with section 8 of schedule 4, as it's related to the one-for-one rule. This section establishes the crown immunity clause for anything done or omitted under the act. The inclusion of a crown immunity clause is clear indication that the government is aware that its actions or omissions pursuant to the act could result in adverse effects to the public and may give rise to regulatory negligence lawsuits. There is absolutely no justification provided as to why the crown should be afforded preferential treatment and be given immunity from liability.

The third provision of concern is section 4 of schedule 4. This section requires that when a regulation is enacted, cabinet, where appropriate, must ensure that less onerous compliance requirements are imposed on small businesses. It should be noted that the size of a business is not necessarily an indicator of risk. Many hazardous waste operations in Ontario, which have the potential to cause serious environmental harm, would likely meet the definition of a small business.

There is no compelling rationale, therefore, as to why small businesses should be afforded preferential treatment under the law. There is a very real prospect that section 4 of schedule 4 will pave the way for the inconsistent application of the law and create an uneven playing field for regulatory compliance.

Finally, I want to turn to section 7 of schedule 4. This is a very odd provision to find in a government bill. It requires all government ministries to develop a plan to recognize businesses that demonstrate excellent compliance with regulatory requirements. Given the limited government resources in terms of staff and budget, CELA is of the view that government should instead focus on delivering its core mandate. This involves establishing regulatory requirements to protect public health and safety and enforcing compliance. We note that industry associations, as opposed to the provincial government, may be better suited to provide recognition to businesses that have excelled in achieving regulatory compliance.

In conclusion, therefore, CELA recommends that sections 2, 4, 7 and 8 of schedule 4 of Bill 154 be deleted.

Those are all of my submissions, subject to any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Nadarajah.

We'll begin with the NDP side: Ms. Fife.

Ms. Catherine Fife: Thank you, Ramani, for coming in. We share your concerns around schedule 4. This bartering of regulatory offsets is of great concern to us, particularly around worker safety.

You've raised a very serious concern. I wanted to give you an opportunity to expand on your suggestion, as you've written in your deputation, that the crown, the government, is knowingly in a position right now where, by putting forward these regulatory changes, they're immunizing themselves from any negligent lawsuits. That's a pretty serious accusation. Can you expand on that, please?

1430

Ms. Ramani Nadarajah: Crown immunity clauses have always been questioned by the Canadian courts because effectively they create preferential treatment for the crown. I think there has been a lot of academic literature on this issue. It's recognized that, in very discrete circumstances, when the crown is actually engaging in some activity that is providing some benefit to the public—in those rare instances, crown immunity clauses may be appropriate.

That is not the case here. The crown immunity clause, from my review of the bill, I thought was disconcerting and alarming. I think it's included specifically because—I think the only rationale is because the crown knows and the government knows that its actions or its omissions under the act could have adverse impacts on the public and may give rise to regulatory negligence lawsuits. That's the only rationale I can see.

Ms. Catherine Fife: And those potential damages to the public interest could potentially be trumped by the private interests, by the interests of the offsetting or by the bartering of regulatory burdens. Is that right?

Ms. Ramani Nadarajah: Yes. The one-for-one rule has been adopted in other jurisdictions. As I mentioned, in the UK it's considered to have led to some rather catastrophic effects. It prevented the government from enacting fire safety laws.

We've gone down this path before. This is not new. I would commend all of the members of this committee to review the Walkerton report, chapter 10, which deals with this issue, where you had similar provisions which had a chilling impact on the ministry in terms of enacting very necessary regulations that would have prevented the Walkerton tragedy.

Ms. Catherine Fife: Thank you very much.

The Chair (Mr. Shafiq Qaadri): To the government side: Ms. Martins.

Mrs. Cristina Martins: Thank you very much for being here this afternoon and for your comments and your remarks. We appreciate the feedback that you have provided. That's why we have this process here in place:

so that we can hear from organizations and associations like the one that you're here representing today.

I said this earlier, during the process this morning, in comments similar, perhaps, to the ones you're saying, that we're deregulating processes in Ontario. I worked in the pharmaceutical industry before entering the world of politics. Let me tell you, if there's an industry that is regulated, it is the pharmaceutical industry. I live my days with regulations, and I recognize the need to have regulations in place.

Someone this morning commented that we can have positive regulations and commented on the importance of periodically updating regulations and improving regulations. I think what is at the core of what we're trying to do here today and presenting with this bill is to improve the regulations and update the regulations, ensuring that we now can have electronic submission of documents so that we're a little bit more up to today's technology in that respect.

I just wanted to mention that and to encourage you to continue to provide feedback on the draft regulations that are currently online to suggest how we can potentially do things differently or perhaps improve them.

I know that there is a concern regarding the regulations around the environment and the fear of another Walkerton. We don't want that. There is a preamble for schedule 4 of Bill 154. Preambles, as you're probably well aware, have legal consequences, and they spell out the intent of the bill. I'm going to read just one little paragraph here from the preamble: "Ontario is committed to fostering a strong business climate that supports

growth while ensuring appropriate regulatory oversights that protect the public, workers and the environment." So the intent of this legislation is spelled out very clearly in the preamble.

I'm not sure if there was anything else that you wanted to add, but I did want to say, regarding the immunity clause in section 8, that it merely codifies the immunity that the crown already enjoys with respect to good-faith legislative action. Despite the inclusion of this clause, aggrieved parties can still seek recourse through existing administrative law processes.

Ms. Ramani Nadarajah: Was there a question there?

Mrs. Cristina Martins: I just wanted to make sure that that went on the record.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Martins. To the PC side: Mr. McNaughton.

Mr. Monte McNaughton: I'm going to be fast too. I think MPP Martins summed it up quite nicely there, so I don't have any questions. Thank you for presenting today.

Ms. Ramani Nadarajah: Maybe I could respond to that question, if there was a question there.

The Chair (Mr. Shafiq Qaadri): You're welcome to do a corridor consultation.

Ms. Ramani Nadarajah: Okay.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McNaughton, and thanks to you, Ms. Nadarajah, for your presence.

That concludes our deputations for today. Committee will reconvene on Thursday, 9 a.m., 26th of October. Thank you, colleagues.

The committee adjourned at 1435.



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